

INTERNAL REVENUE SERVICE
DISTRICT DIRECTOR
31 HOPKINS PLAZA
BALTIMORE MD 21201

Department of the Treasury

Person to Contact:

Telephone Number:

Reply to:

Date:

JUL 14 1992

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(4) of the Internal Revenue Code and have determined that you do not qualify for tax exemption under this section. Our reasons for this conclusion and the facts on which it is based are explained below.

The information submitted indicates that you were incorporated under the laws of [REDACTED] on [REDACTED]. The purposes of your organization are to construct, maintain and repair the road and its associated right of way and easements in the residential subdivision known as [REDACTED], and to enforce the rules and regulations set forth in the "Declaration of Restrictions" of [REDACTED].

The activities of your organization consist of the maintenance and improvement of the common area. This includes resurfacing the road, making minor road repairs when needed, installing and maintaining informational signs, snow removal and landscaping of the entrance area. Your organization also holds meetings to discuss pertinent issues and plans social gatherings.

In a letter dated [REDACTED], you submitted a copy of your subdivision plat. You state that the Association itself owns no property (aside from erected signs) or area. You further state that "the roadway is actually owned to the centerline of the road by the individual lot owners and is open to the public."

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname	[REDACTED]	[REDACTED]					
Date	7/14/92	7/14/92					

[REDACTED]

Your income is derived from annual assessments of all property holders on record and interest accrued on a bank account. Expenses are shown for liability insurance, legal services, registered agent fees, snow removal and State Corporation Commission annual fee.

Section 501(c)(4) of the Code provides for the recognition of civic leagues, social welfare organizations, or other organizations, not organized for profit, but operated exclusively for the promotion of social welfare.

Section 501(c)(4)-1(a)(2)(i) of the Federal Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated for the purpose of bringing about civic betterment and social improvements.

Revenue Ruling 72-102, 1972-1, C.B. 149, states that a non-profit organization formed to preserve the appearance of a housing development and to maintain streets, sidewalks, and common areas for the use of residents is exempt under section 501(c)(4) of the Code. Membership is required of all owners of real property in the development and assessments are levied to support the organization's activities. It was held that by maintaining the property normally maintained by municipal governments, the organization served the common good and general welfare of the people of the community.

Revenue Ruling 74-99, 1974-1 C.B. 131, modified Revenue Ruling 72-102 by stating guidelines under which a homeowners association could qualify for exemption under section 501(c)(4) of the Code. One guideline is that a homeowners association must serve a community which bears a reasonable recognizable relationship to an area ordinarily identified as governmental in order to qualify under Code section 501(c)(4).

This ruling reads in part: "A community within the meaning of section 501(c)(4) and the regulations is not simply an aggregation of homeowners bound together in a structural unit formed as an integral part of a plan for the development of a real estate division and the sale of homes therein. Although the exact delineation of the boundaries of a "community" contemplated by section 501(c)(4) is not possible, the term as used in that section has traditionally been construed as having reference to a geographical unit bearing a reasonable recognizable relationship to an area ordinarily identified as a governmental unit or district thereof."

[REDACTED]

Revenue Ruling 69-280, 1969-2.C.B. 152, concerns a nonprofit organization formed to provide maintenance of exterior walls and roofs of homes of members who own houses in a development. The court held that this entity did not qualify for exemption under section 501(c)(4) since it was performing services that members would ordinarily have to provide for themselves and was providing an economic benefit which served the members instead of the community as a whole. The court further held that "any benefits to the community are not sufficient to meet the requirement of the regulation that the organization be operated primarily for the common good and general welfare of the people of the community."

There are [REDACTED] lots in your subdivision of which [REDACTED] contain private single family residences [REDACTED] is not developed).

Your common area consists solely of an access road through the subdivision from the State Route No. [REDACTED] ending in a cul-de-sac. The road can only benefit the lot owners and those members of the general public who are their guests. There are no recreational or parking facilities, sidewalks or streetlights.

Revenue Ruling 74-99 states that Revenue Ruling 72-102 was "intended only to approve ownership and maintenance by a homeowners association of such areas as roadways and parklanes, sidewalks and street lights, access to, or the use and enjoyment of which is intended to members of the general public, as distinguished from controlled use or access restricted to the members of the homeowners association..."

We have determined that your activities are similar to those described in this Revenue Ruling, and primarily benefit the homeowners and members rather than promote the common good and general welfare of the people of the community. Therefore, your organization does not qualify for exemption under section 501(c)(4).

In accordance with this determination, you are required to file Federal income tax returns on Form 1120H.

Your attention is called to Internal Revenue Code section 528, which provides certain procedures by which qualifying homeowners associations may elect to be treated as a tax-exempt organization. The enclosed Publication 588 describes the requirements to be covered by this section of the Code.

[REDACTED]

If you do not accept our findings, we recommend that you request a conference with a member of our Regional Office conference staff. Your request for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional Office, or if you request, at any mutually convenient District Office. If we do not hear from you within 30 days from the date of this letter, this determination will become final.

Sincerely yours,

[REDACTED]
District Director

Enclosures: Publication 892
Publication 588